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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,606	03/23/2004	Eiji Nakai	362-92	2455

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EXAMINER	
TEKLE, DANIEL T	
ART UNIT	PAPER NUMBER
2621	
MAIL DATE	DELIVERY MODE
12/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,606	NAKAI, EIJI	
	Examiner	Art Unit	
	DANIEL TEKLE	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 December 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 26, 2008 has been entered.

Response to Argument

Applicant argument regarding claims 1 and 8 on page 8 third paragraph of the remark, "....the information stored in the non-volatile area in according with the apparatus and method of the present invention defined by independent claims 1 and 8 is file information, indicating a file (that is, reference data file) to which data is currently being written. In contrast, the reproduction method and apparatus disclosed in Sakuramoto, et al. published application is location information, which indicates a location (that is, an address) on the recording medium to which data is currently being written.

In response the examiner respectively disagrees. Claim 1 and 8 limitation are specifically does not show, how it recover the data during the power interruption, however fig. 5 show the address or the location of the data when the cut off point take place. Similarly Sakuratoto et al. disclose in addition to paragraph 23 and 98,

paragraph 101 shows "the disc information, the video reproduction information, and set-up information, as well as the information indicative of the video reproducing position, are always sampled and stored into the last memory 9 during the reproduction, at a desired time period or frequency, therefore those information i.e. the disc information, the video reproduction information and the information indicative of the video reproducing position at the time just before it, are preserved when the power supply is abruptly broken down or is cut off under a bad condition at the electric power supply source of the apparatus. Therefore, when the power supply is turned ON again, it is possible to execute the reproduction continuously from that position, under the same output condition.

Applicant argument regarding claims 1 and 8 on last paragraph of page 8 and first and second paragraph page 9 of the remark, the examiner respectively disagree since the "....updating cycle of the file information.....longer than the updating information disclosed in the Sakuromoto et al." and "....error between the writing end location and writing starting location" did not cover in the claim limitation.

Applicant argument regarding claims 2 and 9 on page 10 first paragraph of the remark, the examiner respectively disagree since the advantage between the pending claim and the reference means of ".....possible to start the writing operation with an increase in the processing load of the apparatus and method reduced and a smaller error, such error being on the order of the size of the frame" not covered in the claim limitation.

Applicant argument regarding claims 3-6 and 10-13 is not clear. if the argument is regarding MPEG format, Sakuramoto discloses MPEG format in paragraph 0096.

Applicant argument regarding claim 14, see response to claim 2 above.

Applicant argument regarding claim 15, the examiner respectively disagree since Sakuramoto et al. invention discloses a discontinue address, position and time during the power failure. The discontinue position which is stored in the memory is the detector for restoring data after the power turned on (paragraph 101).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakuramoto et al. (US 2002/0126993).

Regarding Claim 1: Sakuramoto et al. discloses a content recording apparatus, comprising: a designator for designating in the order from a reference data file a plurality of data files **(paragraph 0011)**; a data writer for writing content data into the data file designated by designator **(paragraph 0011)**; an information writer for writing into a non-volatile storing area file information that identifies the data file designated by

designator at each time that a designation of designator is updated, wherein reference data file is a data file specified by the latest file information stored in non-volatile storing area **(paragraph 0011)**.

Regarding Claim 2: Sakuramoto et al. discloses a content recording apparatus according to claim 1, further comprising: a marker writer for writing a marker into non-volatile storing area at a time of ending a writing operation by data writer **(paragraph 0011)**; a determiner for determining whether or not marker exists in non-volatile storing area before starting the writing operation by data writer **(paragraph 0011)**; a detector for detecting a data discontinued point from reference data file when a determination result of determiner is negative **(paragraph 0011)**; and a determiner for determining a writing starting location on reference data file based on the data discontinued point detected by detector **(paragraph 0011)**.

Regarding Claim 3: Sakuramoto et al. discloses a content recording apparatus according to claim 2, wherein content data includes moving image data having a plurality of frames of an image, and index data that manages each of plurality of frames, and each of plurality of data files includes a moving image file that stores moving image data, and an index file that stores index data **(paragraph 104-0113)**.

Regarding Claim 4: Sakuramoto et al. discloses a content recording apparatus according to claim 3, wherein index data includes time information indicating a time at which each of plurality of frames of an image has been obtained, and detector detects data discontinued point based on time information **(paragraph 0092)**.

Regarding Claim 5: Sakuramoto et al. discloses a content recording apparatus according to claim 2, wherein plurality of frames of an image include a first encoded image to which an intra-encoding is applied, and a second encoded image to which an inter-encoding is applied, and determiner determines as writing starting location a location that precedes data discontinued point and in which first encoded image exists **(paragraph 0011 and 0096)**.

Regarding Claim 6: Sakuramoto et al. discloses a content recording apparatus according to claim 5, further comprising a buffer for temporarily holding content data prior to the writing operation by said data writer, wherein determiner determines writing starting location taking into consideration a capacity of buffer **(paragraph 0170)**.

Regarding Claim 7: Sakuramoto et al. discloses a content recording apparatus according to claim 1, wherein said plurality of data files have the same capacity to each other **(Fig. 3)**.

Regarding Claim 8: Claim 8 is rejected for same subject matter as claim 1.

Regarding Claim 9: Sakuramoto et al. discloses a content recording apparatus, comprising: a recorder for recording into a recording medium content data formed of a plurality of partial contents **(Fig. 3)**; a creator for creating index data including location information indicating a location of each of plurality of partial contents, and time information indicating a time at which each of said plurality of partial contents has been obtained **(paragraph 92 and 104-113)**; a detector for detecting a temporal discontinuing point of said index data based on time information before a recording operation by recorder is started **(paragraph 92 and 104-113)**; and a first determiner for determining

a location of starting recording content data based on the temporal discontinuing point detected by detector **(paragraph 104-113)**.

Regarding Claim 10: Claim 10 is rejected for same subject matter as claim 2.

Regarding Claim 11: Sakuramoto et al. discloses a content recording apparatus according to claim 10, further comprising: an information writer for writing into non-volatile storing area location information indicating an ending location of recording operation **(paragraph 0033)**; and a second determiner for determining a location for starting recording content data based on the location information written in non-volatile storing area when the determination result of determiner is affirmative **(paragraph 0033)**.

Regarding Claim 12: Claim 12 is rejected for same subject matter as claim 5.

Regarding Claim 13: Sakuramoto et al. discloses a content recording apparatus according to claim 9, wherein a plurality of data files are formed in recording medium, and recorder sequentially records said content data into plurality of data files **(Fig. 3)**.

Regarding Claim 14: Claim 14 is rejected for same subject matter as claim 9.

Regarding Claim 15: Sakuramoto et al. discloses a content recording apparatus, comprising: a recorder which cyclically records content data being encoded on a recording medium **(paragraph 0089)**; a producer with in parallel with a recording of the content data by recorder and cyclically produces on recording medium index data having information for referring content data and time information **(paragraph 0104)**; a recording state information holder which holds state information that represents two states of a recording state and a record suspended state, when the recording of the

content data is started in response to a record starting instruction, recording state being established, and when the recording of the content data is suspended in response to a record suspending instruction, record suspended state being established **(paragraph 0094 and 0113)**; a writing location memory which stores a writing location at a time that the recording is suspended by record suspending instruction **(paragraph 094)**; a detector which detects a temporal discontinued point by scanning index data if state information is recording state after a power is turned on **((paragraph 0104))**; a first setter which sets a first record starting location at a location corresponding to temporal discontinued point on the basis of index data of temporal discontinued point if temporal discontinued point is detected by said detector **(paragraph 094)**; a first record starter which starts the recording of the content from first record starting location **(paragraph 094)**; a second setter which sets a second record starting location at a location corresponding to writing location if state information is said recording state after a power is turned on **(paragraph 094)**; and a second record starter which starts the recording of the content from said second record starting location in response to said record starting instruction **(paragraph 094)**.

Regarding Claim 16: Sakuramoto et al. discloses a content recording apparatus according to claim 15, wherein content data includes at least an intra-encoded image obtained through an intra-encoding, and first setter sets a location of the intra-encoded image included in an image group in which temporal discontinued point is belonging as said first record starting location if an image corresponding to said temporal discontinued point is not the intra-encoded image **(paragraph 0159)**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621
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